



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

**999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2466**

June 5, 2003

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Weston County Commissioners
c/o Martin Tysdal, Chair
1 West Main
Newcastle, WY 82701

Re: Notice of Safe Drinking Water
Act Enforcement Action against
Buckhorn Bar & Grill
PWS ID #5600600

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Buckhorn Bar & Grill, Newcastle, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The System is in violation of 40 C.F.R. §§ 141.21, 141.201, 141.21(g)(2), and 141.31(b) for: failure to monitor for total coliform bacteria; failure to provide public notice of the violations; failure to report SDWA violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County



Printed on Recycled Paper

2.

Commission. If you have any questions regarding this Order, please contact Melanie Wasco at (303) 312-6540.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure



Printed on Recycled Paper



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

June 5, 2003

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Buckhorn Bar & Grill, LLC
c/o Steven R. Macziewski, Registered Agent
25380 N. U.S. HWY 85
Newcastle, WY 82701

Re: Administrative Order
Docket No. **SDWA-08-2003-0033**
PWS ID #5600600

Dear Mr. Macziewski:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Buckhorn Bar & Grill Water System (System) is a public water supplier as defined by the SDWA and that the owner of the system has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.21(a), 141.201, 141.21(g)(2), and 141.31(b) for: failure to monitor for total coliform bacteria; failure to provide public notice of the violations; failure to report total coliform monitoring violations to EPA within 10 days of discovering the violation; and failure to report NPDWR violations to EPA within 48 hours.

If the System owner complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or



Printed on Recycled Paper



Printed on Recycled Paper

4.

(3) a court injunction ordering you to comply.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information may be sent to Melanie Wasco at the address on the letterhead, include the mailcode 8ENF-T, or you may call Ms. Wasco at (800) 227-8917, extension 6540, or (303) 312-6540. If you wish to have an informal conference with EPA, you may also call or write Ms. Wasco. If you are represented by an attorney or have legal questions, please call Dana Stotsky at the above 800 number, extension 6905, or at (303) 312-6905.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures
Order
Public Notice template
SBREFA

cc: Larry Robinson, WY DEQ
Dr. Karl Musgrave, WDH



Printed on Recycled Paper

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)	
)	
Buckhorn Bar & Grill, LLC)	
25380 N. U.S. HWY 85)	
New Castle, Wyoming)	
PWS ID# WY5600600)	
)	
Respondent)	
)	ADMINISTRATIVE ORDER
Proceedings under Section 1414(g))	
of the Safe Drinking Water Act,)	
42 U.S.C. § 300g-3(g))	Docket No. SDWA-08-2003-0033
)	

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Buckhorn Bar & Grill LLC ("Respondent") is a limited liability corporation under the laws of the state of Wyoming as of April 2001 and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Buckhorn



Bar & Grill Water System (the "System"), located in Weston County, Wyoming for the provision to the public of piped water for human consumption.

3. The Buckhorn Bar & Grill Water System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. Part 141.
5. According to an October 18, 2001 sanitary survey by an agent for EPA, Respondent operates a system that is supplied solely by a ground water source consisting of one spring. The system serves approximately 25 persons



per day through 3 service connections. The System has been identified as a public water system since October 1978.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21 requires the owner and/or operators of non-community public water systems to monitor the water at least once per quarter to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. Respondent failed to monitor the System's water for contamination by total coliform bacteria during the 3rd (July-September) quarter in 2001, the 1st (January-March) quarter in 2002, the 3rd (July-September) quarter in 2002 and the 4th (October-December) quarter in 2002, in violation of 40 C.F.R. § 141.21(a).

II.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulation ("NPDWR") violations, including violations of the maximum contaminant level ("MCL"), maximum residual



disinfection level ("MRDL"), treatment technique ("TT"), monitoring requirements, and testing procedures in 40 C.F.R. Part 141.

2. Respondent has not provided public notice of the noncompliance detailed in the preceding Section I, in violation of 40 C.F.R. § 141.201.

III.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a total coliform monitoring requirement under 40 C.F.R. § 141.21 to report the monitoring violation to EPA within 10 days after the system discovers the violation.
2. Respondent failed to report to EPA the noncompliance detailed in Section I, in violation of 40 C.F.R. § 141.21(g)(2).

IV.

1. 40 CFR §141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 CFR Part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA instances of noncompliance detailed in Section II, in violation of



ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. As of the effective date of this order, Respondent shall comply with the total coliform monitoring requirements as stated in 40 C.F.R. § 141.21 to determine compliance with the total coliform MCL appearing at 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
2. No later than 30 days from the effective date of this Order, Respondent must provide public notice of the violations specified under the Findings of Violation in Section I in this Order to return to compliance with 40 C.F.R. § 141.201. This notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably



calculated to reach other persons served by the system, if they would not normally be reached by the notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The public water system must repeat the notice every three months as long as the violation or situation persists. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

3. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after



the system discovers the violation.

4. Except where a different reporting period is specified in paragraph 3 above, upon the effective date of this Order, Respondent shall comply with 40 CFR §141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 CFR Part 141) to EPA within 48 hours.
5. Reporting requirements specified in this Order shall be provided by certified mail to:

Melanie Wasco
U. S. EPA Region 8 (8ENF-T)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order instituted under Section 1414(g)(3)(A), 42 U.S.C. § 300g-3(g)(3)(A), may subject the Respondent to an administrative civil



penalty of up to \$25,000 per day of violation under Section 1414(g) (3) (B) of the Act, 42 U.S.C. § 300g-3(g) (3) (B), or a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C).

3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section 1414(b), 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 5TH day of June, 2003.

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



Printed on Recycled Paper

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



DRINKING WATER NOTICE

Monitoring requirements not met for Total Coliform Bacteria
We violated a drinking water standard. Even though this was not an emergency, as our customers, you have a right to know what happened and what we are doing to correct this situation.

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During the third quarter of 2001, and first and third quarter of 2002 we did not monitor for total coliform bacteria and therefore cannot be sure of the quality of our drinking water during that time.

What This Means

There is nothing you need to do at this time. The table below lists the contaminant we did not properly test for, how often we are supposed to sample for it and how many samples we are supposed to take,



how many samples we took, when samples should have been taken, and the date on which follow-up samples were (or will be) taken.

Contaminant	Required sampling frequency	Number of samples taken	When all samples should have been taken	When samples were or will be taken
Total coliform bacteria	Quarterly	Failed to collect routine samples for 3 quarters in 2001-2002	1 sample every quarter	1 routine sample per quarter or 4 per year

Steps We Are Taking

Total coliform bacteria to be monitored by sampling quarterly. Public Notice to be posted for 7 consecutive days.

For more information, please contact Steven Macziewski of Newcastle at the Buckhorn Bar and Grill .

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

State Water System ID#: WY5600600 Date distributed: _____



Printed on Recycled Paper

IF YOU WOULD LIKE COPIES OF THE INFORMATION SHEET FOR SMALL BUSINESS RESOURCES, PLEASE CONTACT THE REGIONAL HEARING CLERK.

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON JUNE 5, 2003.

